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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,528	12/18/2000	Rabindranath Dutta	AUS920000919US1	2040
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Greg Goshorn, P.C. 9600 Escarpment Suite 745-9 AUSTIN, TX 78749			EXAMINER DENNISON, JERRY B	
			ART UNIT 2143	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/740,528

Applicant(s)

DUTTA, RABINDRANATH

Examiner

J. Bret Dennison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **RESPONSE TO AMENDMENT**

1. This Action is in response to the Amendment of Application Number 09/740,528 received on 30 April 2007.
2. Claims 1-3, 5-14, and 16-21 are presented for examination.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 20 includes the limitation, "further comprising instructions for recording in the transcript at least one video image of the student recorded at a time other than during the exam to compare with the at least one video frame transmitted during the exam". Claim 21 includes the limitation, "further comprising storing within the transcript at least one video image of the student recorded at a time other than during the exam to compare with the at least one video frame transmitted during the exam". Applicant's specification does not provide the detail to show that applicant has invented this subject matter as claimed. The claims must be corrected to adequately describe the invention from the specification. See section 4, below, for more detail.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 20 includes the limitation, "further comprising instructions for recording in the transcript at least one video image of the student recorded at a time other than during the exam to compare with the at least one video frame transmitted during the exam". Claim 21 includes the limitation, "further comprising storing within the transcript at least one video image of the student recorded at a time other than during the exam to compare with the at least one video frame transmitted during the exam".

Applicant's specification does not provide the detail to show that applicant has invented this subject matter as claimed. Applicant's specification refers to Figure 9A, which includes a GUI displaying a student's transcript. Applicant's specification states, "There also is an image of the student 910 for verification of the student's identification if necessary" [see Applicant's specification, page 18, last paragraph]. The specification does not provide any evidence regarding when this image has been taken. The specification also does not provide any evidence that shows this picture is used for comparison. Since Applicant's specification only provides evidence of taking the student's picture at the time of the exam (see Applicant's specification, page 19), Examiner has reason to believe that this image 910 was taken during the exam as well, and a professor/administrator uses the picture to make sure he/she recognizes the

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student. There is no comparison to another picture. Verification takes place by the professor recognizing the student.

"[T]he essential goal' of the description of the invention requirement is to clearly convey the information that an applicant has invented the subject matter which is claimed." In re Barker, 559 F.2d 588, 592 n.4, 194 USPQ 470, 473 n.4 (CCPA 1977).

The written description ' requirement implements the principle that a patent must describe the technology that is sought to be patented; the requirement serves both to satisfy the inventor's obligation to disclose the technologic knowledge upon which the patent is based, and to demonstrate that the patentee was in possession of the invention that is claimed." Capon v. Eshhar, 418 F.3d 1349, 1357, 76 USPQ2d 1078, 1084 (Fed. Cir. 2005). Further, the written description requirement promotes the progress of the useful arts by ensuring that patentees adequately describe their inventions in their patent specifications in exchange for the right to exclude others from practicing the invention for the duration of the patent's term.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-14, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiNicola et al. (U.S. 6,288,753) in view of Sonnenfeld (U.S. 6,418,298).

5. Regarding claims 1, 8, and 14, DiNicola disclosed a method, system and computer program product for administering exam content from a server to at least one client over a network (DiNicola, Abstract, col. 3, lines 31-33, col. 4, lines 51-67, and col. 5, lines 1-7), the method comprising:

registering at least one exam submitted by an exam provider with the server (DiNicola, col. 4, lines 51-67; col. 5, lines 1-7 and 49-67; col. 6, lines 1-21; and col. 11, lines 65-67);

transmitting a video frame of a student to the server to verify the identity of the student (DiNicola, col. 8, lines 23-30; DiNicola disclosed the a video recording of student classrooms through a student classroom display station in which the instructor has the ability to observe "the students themselves"; col. 7, line 60 through col. 8, line 11, DiNicola disclosed that any video recording means includes a "live/ real-time" video signal that is archived, meaning that any video is sent to a server or video production studio);

generating a transcript in response to answers submitted by the student to at least one exam question resident on the server (DiNicola, col. 13, lines 37-64, DiNicola disclosed a test-scoring scripts engine which grades the submitted exam and stores all relevant data in the database); and

storing the video frame in conjunction with the transcript (DiNicola, col. 7, lines 60-67, DiNicola disclosed archiving the video signal at system 20; col. 13, lines 37-64, DiNicola disclosed a test-scoring scripts engine which grades the submitted exam and

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stores all relevant data in the database at Web Server 27, and therefore stored in conjunction with the video, i.e. in the same system);

providing access to the transcript to at least one third party (DiNicola, col. 13, line 65 through col. 14, line 16, and col. 14, lines 25-30, DiNicola provides access to the testing data to students as well as administrators).

While DiNicola did disclose the fact that a test administrator has the ability to create an exam and the students have access to it immediately while a class is being given, and DiNicola disclosed, as shown above, that students are observed through video (DiNicola, col. 8, lines 23-30) as well as all video is archived (DiNicola, col. 7, line 60 through col. 8, line 11) it would have been obvious to one of ordinary skill in the art at the time the invention was made that students are observed while a class is being given. Since DiNicola disclosed the exams being given while a class is being given, it would have been obvious to one of ordinary skill in the art that the instructor has the ability to observe students while they are taking the exam and the video is archived at a server.

However, DiNicola did not explicitly state transmitting a video frame of a student to the server at least during the exam to verify the identity of the student.

In an analogous art, Sonnenfeld disclosed a test server and web server (Sonnenfeld, col. 3; lines 5-10) in which students are provided with a exam, in which it may be desired to seek to prevent a user from viewing or receiving information other than that provided by a test designer, such prevention being possible through the use of

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a video camera, for example, video conferencing, to proctor the test (Sonnenfeld, col. 3, lines 30-40).

The teachings of DiNicola disclosed the required structure for transmitting video to a server while a student is taking an exam. Sonnenfeld actually disclosed proctoring the test through transmitting video to a server. Therefore it would have been within the level of one of ordinary skill in the art to use the teachings of Sonnenfeld in the system of DiNicola.

Therefore, it would have been obvious for one of ordinary skill in the art to incorporate the proctoring of Sonnenfeld in the system of DiNicola to provide the instructor/test designer with the ability to remotely proctor students taking exams for the benefit of reducing the levels of cheating.

6. Regarding claims 2, 10 & 16, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14, including providing an exam content generator with access to registered exams on the server, (Col. 11, lines 48-67; Col. 12, lines 1-67 and Col. 13, lines 1-47).

7. Regarding claims 3, 9, and 17, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14, including providing an exam grader with access to student's answers on the server, (Col. 13, lines 37-64 and Col. 17, lines 44-60).



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8. Regarding claims 5, 20, and 21, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14.

DiNicola and Sonnenfeld did not explicitly state storing within the transcript at least one video image of the student recorded at a time other than during the exam to compare with the at least one video frame transmitted during the exam

However, as explained above, since DiNicola disclosed that students are observed through video (DiNicola, col. 8, lines 23-30) and all video is archived (DiNicola, col. 7, line 60 through col. 8, line 11) it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the archived data with the particular student to enable the instructor to monitor a plurality of students during one exam and be able to replay each archived video of each student to provide the instructor with the ability to check for cheating.

9. Regarding claims 6, 12, and 18, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14, including registering a plurality of exams with the server (DiNicola, col. 4, line 51 through col. 5, line 7; col. 5, lines 49-67; col. 6, lines 1-21, and col. 11, lines 65-67).

10. Regarding claims 7, 13 and 19, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14, including recording a student's answers to at least one exam question presented by the server; and grading the student's answers to generate an exam result, (Col. 13, lines 37-64).

11. Regarding claim 11, DiNicola and Sonnenfeld disclosed the limitations, substantially as claimed, as described in claims 1, 8, and 14, including wherein the server comprises a means for accepting and storing video images of the student (DiNicola, col. 7, lines 55-67).

### **Response to Amendment**

Applicant's arguments and amendments filed on 30 April 2007 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (*i.e., by incorporating new limitations into the independent claims, which will require further search and consideration*) to the claims which significantly affected the scope thereof.

Applicant asserts, "Specifically, a video frame of a student transmitted during an exam is stored in conjunction with the transcript associated with the student rather than merely in conjunction with a particular classroom situation (FIG. 9A, ¶51, lines 1-10) as in DiNicola" [see Applicant's Response, page 6, 2<sup>nd</sup> paragraph].

Examiner respectfully disagrees.

As shown in the above rejection, DiNicola disclosed storing both the video and the transcript information in system 20. Therefore these elements are stored "in conjunction" with each other, as Applicant points out (as quoted above).

Applicant asserts, "there is no mechanism suggested for the Instructor to correlate a specific student's image from among images of groups of students to a specific test for the purpose of validating the test" [see Applicant's Response, page 7, 1<sup>st</sup> paragraph].

Examiner respectfully disagrees.

As clearly shown in the above rejection, DiNicola provides a mechanism to record video of all the students in a classroom, as well as record transcripts of all the students in the classroom. Therefore, clearly an instructor may watch the video to verify each student in the video to validate the test.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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